

## **MINUTES**

### **BOARD OF ADJUSTMENT**

#### **TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY**

Regular Meeting

May 23, 2013

The Regular Meeting of the Board of Adjustment was called to order at 7:30 PM in the Public Meeting Room.

It was confirmed that the meeting was being held in conformance with all regulations of the SUNSHINE LAW and proper notice had been given to the Courier News; also, the Agenda had been posted in Town Hall, Board Office, and supplied to the Township Clerk at least forty-eight hours prior to the meeting. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue significantly past 10:30 PM.

#### **Roll Call:**

Members present were Mr. Bussiculo, Mr. Miller, Mr. Boyer, Mr. Smith, Mr. Siburn, Mr. Sullivan and Mr. Delia. Mr. Minkoff and Mrs. Granholm were absent. Mr. Daniel Bernstein, Board Attorney, was also present.

#### **Applications for Review:**

##### **App. #10-13: Firestone, 292 Springfield Avenue, Block 801, Lot 27 (HB-2 Zone)**

Addition of lean-to roof attached to the rear of the existing building. Relief is needed from: Section 6.1.1B, "Schedule of General Regulations" because the roof addition does not conform to the principal rear-yard setback requirements and Section 10.6.3D.4 which sets forth buffering requirements.

Mr. Bussiculo read a letter that was received from Jim Hopkins, Berkeley Heights Fire Chief, in which he stated that Firestone is in violation of the fire code due to the fact that a fence is obstructing the exit.

Paul Wigg-Maxwell, attorney for Firestone, stated that this is the first he has heard of the letter but he will bring it to the attention of the applicant and make sure it is taken care of. Mr. Wigg-Maxwell stated that he has investigated the environmental issue raised with regard to the barrels used for storing oil filters. The barrels do have sealable lids so there is no problem with rain water getting

into the barrels. The barrels are placed on a pallet so that if there are any spills that can be collected.

Mr. Wigg-Maxwell submitted photographs of the site and it was suggested that for the next hearing he bring additional photos of the actual barrels. It was also suggested that a representative of Firestone attend the next meeting and that a consent letter from the owner of the property be provided.

### **Open to Public**

The hearing was opened to the public for questions or comments regarding the application. There were no members of the public who had questions or comments and the hearing was closed to the public.

The hearing of Application #10-13: Firestone, 292 Springfield Avenue, Block 801, Lot 27 (HB-2 Zone) was carried to the Regular Meeting of the Board on June 27, 2013 with no further notice required.

### **App. #11-13: Edward Delia, 294 Garfield Street, Block 209, Lot 7 (R-10 Zone)**

Relief is needed from Section 6.1.1B and Section 11.1.7A for expansion of existing driveway which resulted in "Other Coverage" being exceeded and also for being less than the required 5 feet from the lot line. Nonconforming conditions are lot width, principal side-yard setback, combined side-yard setback, and existing accessory structure (shed) less than the required five feet from the property side line.

Mr. Delia excused himself from this application since he is related to the applicant.

Ed Delia, applicant, was sworn.

Mr. Smith and Mr. Siburn advised that they visited the property. They noted that the driveway is on the property line and that the sewer plant is located behind the property.

Mr. Delia stated that he wants to have the driveway in the back for convenience. The driveway is stone, not paved, but the zoning officer has determined that the stone is impervious. Mr. Delia further stated that every house on that side of the street has a driveway on the property line and parking on the street is a problem

since it is a narrow street without curbs. If the proposed driveway is approved he will not have to park in the street.

Mr. Delia presented Exhibits A-1 through A-14 – photographs of his property, the other driveways on the street and the narrow street. He stated that most of the lots are 75' lots and three are 100' lots. In response to questions from the Board, Mr. Delia stated that his next door neighbor has the same type of driveway and that is how he got the idea.

In response to questions regarding the existing shed on the property, Mr. Delia stated that the shed has been there for several years, it is approximately 8' x 12', it is about 1' off the property line and set on stone. The shed blocks his view of the sewer plant.

Further discussion took place with regard to the driveway. Mr. Delia stated that he would like to pave part of it and he thinks that if it is being counted as impervious he should be allowed to make it impervious.

#### **Open to Public**

The hearing was opened to the public for questions or comments regarding the application. There were no members of the public who had questions or comments and the hearing was closed to the public.

A motion was made by Mr. Miller, seconded by Mr. Sullivan, to approve Application #11-13: Edward Delia, 294 Garfield Street, Block 209, Lot 7 (R-10 Zone), including approval of the existing shed, subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting. The voice vote was unanimous with Mr. Bussiculo, Mr. Miller, Mr. Boyer, Mr. Smith, Mr. Siburn and Mr. Sullivan voting in favor. There were none opposed.

Mr. Delia rejoined the meeting

#### **App. #12-13: William J. Manning, Jr., 57 Hampton Drive, Block 3205, Lot 6 (R-20 Zone)**

Proposed 400 sq. ft. increase in driveway width from the street to the house would result in exceeding the 10% "Other Coverage" limit. Nonconforming conditions are lot area, lot width and principal front-yard setback. Relief is needed from Section 6.1.1B., "Schedule of General Regulations."

William and Victoria Manning were sworn and stated that they are proposing to widen their existing driveway. There is a retaining wall that will be removed and then they will grade and widen the driveway.

Mrs. Manning presented Exhibit A-1 – photo of the view facing the house from Hampton Drive, Exhibit A-2 - photo of the left side of the driveway showing the area to be excavated, and Exhibit A-3 – photo showing the curvature of the wall.

In response to questions from the Board, Mr. and Mrs. Manning stated that the wall is about 2' high and it will be removed and not replaced. They are aware that a permit is needed to open the curb. The property behind theirs is Township property. They would like to keep the small shed that is about 3" off the property line.

### **Open to Public**

The hearing was opened to the public for questions or comments regarding the application. There were no members of the public who had questions or comments and the hearing was closed to the public.

A motion was made by Mr. Boyer, seconded by Mr. Delia, to approve Application #12-13: William J. Manning, Jr., 57 Hampton Drive, Block 3205, Lot 6 (R-20 Zone), including approval of the existing shed, subject to the conditions discussed and subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting. The voice vote was unanimous with Mr. Bussiculo, Mr. Miller, Mr. Boyer, Mr. Smith, Mr. Siburn, Mr. Sullivan and Mr. Delia voting in favor. There were none opposed.

### **Adoption of Resolutions:**

#### **App. #4-13: Wayne & Linda Parisi, 63 Bristol Court, Block 1503, Lot 39 (R-15 Zone)**

Proposed 6' high fence does not conform to the 5' height restriction. (The 6' height for the section of fence adjacent to NJ Transit Corporation property is permitted; however, the remaining sections of fence do not conform to Section 3.1.3 "Fences and Walls.") In addition, a proposed residential storage shed exceeds the 100 sq. ft. maximum allowed. Relief is needed from Section 6.3.1B.4 "Permitted Accessory Uses."

A motion was made by Mr. Delia, seconded by Mr. Miller, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Miller, Mr. Smith, Mr. Siburn, Mr. Sullivan and Mr. Delia voting in favor.

**App. #7-13: Paul & Julianne Giammattei, 46 Mercier Place, Block 3003, Lot 1 (R-20 Zone)**

Proposed sunroom (12' x 16') does not comply with the principal front-yard setback for Mercier Place, as this lot is a corner lot with additional frontage on Old Farm Road. (Required setback: 50'; existing: 30.4'; proposed: 40'.) The existing carport and shed will be removed and a new mudroom and garage will be constructed.

A motion was made by Mr. Miller, seconded by Mr. Siburn, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Miller, Mr. Smith, Mr. Siburn, Mr. Sullivan and Mr. Delia voting in favor.

**App. #8-13: Richard Ham, 28 Forest Avenue, Block 504, Lot 37 (R-15 Zone)**

Expansion of a nonconforming single-family dwelling does not comply with front-yard setback requirements. In addition, building coverage and total lot coverage ratios are exceeded. The nonconforming conditions are lot area, lot width, principal front-yard setback, side-yard setbacks, building coverage and total lot coverage. Also, the existing driveway is 6" over the property line. Relief is needed from Sections 6.1.1B, "Schedule of General Regulations" and 8.1.1B, "Expanding a Nonconforming Single-family Dwelling."

A motion was made by Mr. Smith, seconded by Mr. Siburn, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Siburn, Mr. Sullivan and Mr. Delia voting in favor.

**Adoption of Minutes:**

May 9, 2013

A motion was made by Mr. Siburn, seconded by Mr. Smith, and carried by unanimous voice vote to adopt the minutes of the May 9, 2013 Conference Meeting as presented.

**Adjournment:**

A motion was made by Mr. Miller, seconded by Mr. Delia, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 8:18 PM.

Regina Giardina, Secretary Pro Tem